

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Gilbert F. Mobley,)	Civil Action No.: 8:09-953-JFA-BHH
)	
Petitioner,)	
)	
vs.)	<u>REPORT AND RECOMMENDATION</u>
)	<u>OF MAGISTRATE JUDGE</u>
Levern Cohen, Warden, Ridgeland)	
Correctional Institution,)	
)	
Respondent.)	

The petitioner brought this action seeking relief pursuant to Title 28, United States Code, Section 2254. On December 7, 2009, the respondent filed a supplemental motion for summary judgment on the ground that the habeas petition was mooted by the Petitioner's release. On December 8, 2009, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), an order was mailed to the petitioner's last known address at the Ridgeland Correctional Institution, P.O. Box 2039, Ridgeland, SC 29936, advising him of the summary judgment procedure and the possible consequences if he failed to respond adequately. The envelope containing this order was returned to the court as the petitioner is apparently no longer incarcerated at the Ridgeland Correctional Institution.

The record reveals that the petitioner was advised by order dated April 28, 2009, of his responsibility to notify the court *in writing* if his address changed.

Based on the foregoing, it appears the petitioner no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of

the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce H. Hendricks
United States Magistrate Judge

December 17, 2009
Greenville, South Carolina